

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

MARY ANN STOTTS and,  
HEARLENE A. DISHEROON

(b) County of Residence of First Listed Plaintiff Grundy  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Robert S. Peters, Swafford, Peters, Priest & Hall  
120 North Jefferson Street, Winchester, Tennessee 37398  
(931) 967-3888

## DEFENDANTS

Johnny Ray Fults, individually and in his capacity as  
Grundy Co., TN Road Superintendent; The Grundy County, TN  
Highway Department and Grundy County, TN

County of Residence of First Listed Defendant Grundy  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT  | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |   |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Rights to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input checked="" type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education  | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                                |   |   |   |

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
40 U.S.C. §1983

Brief description of cause:  
Patronage dismissal of plaintiffs by county official

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
500,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
08/28/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
WINCHESTER DIVISION

MARY ANN STOTTS and,  
HEARLENE A. DISHEROON

Plaintiffs,

v.

JOHNNY RAY FULTS, individually  
and in his capacity as Grundy County,  
Tennessee, Road Superintendent

THE GRUNDY COUNTY, TENNESSEE  
HIGHWAY DEPARTMENT  
and  
GRUNDY COUNTY, TENNESSEE

Defendants.

No.: \_\_\_\_\_

JURY DEMAND

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COMPLAINT

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1. The plaintiffs Mary Ann Stotts and Hearlene A. Disheroon are residents and citizens of Grundy County, Tennessee, and both plaintiffs at times material were employees of the Grundy County Highway Department. The defendant Johnny Ray Fults is a citizen and resident of Grundy County, Tennessee, and at times material to this case was the elected road superintendent of Grundy County. The defendant Grundy County Highway Department is a department within the Grund County government and is charged with the responsibility of maintaining the road and highways in Grundy County. The defendant Grundy County is a governmental entity organized and existing under the laws of the State of Tennessee. In doing the acts alleged in the complaint the defendant Johnny Ray Fults was acting under the color of

law applicable to Grundy County and the State of Tennessee, and under his office as Grundy County Road Superintendent.

2. The plaintiff Mary Ann Stotts was an employee of the Grundy County Highway Department for a period of years as an accountant/bookkeeper until she was fired on September 4, 2018, after the election of the defendant Johnny Ray Fults to the office of Grundy County Road Superintendent. She was fired on September 4, 2018. The separation notice states as follows: "The decision has been made to hire someone else for the ADMINISTRATIVE/MANAGERIAL position who the County Road Superintendent feels is better suited for the position." The defendant Hearlene A. Disheroon was an employee of good standing with the Grundy County Highway Department for an extended period of time. The defendant Hearlene A. Disheroon was fired from her position as secretary on September 4, 2018. The separation notice in her case stated the same as what was stated in the separation notice for the plaintiff Mary Ann Stotts. Both women were good and dutiful employees of the Grundy County Highway Department, and they had done satisfactory work during the time they were employed. Their positions were neither a policy-making nor confidential position, and political affiliation was not an appropriate requirement for the effective performance of their jobs.

3. The Grundy County election that resulted in the defendant Johnny Ray Fults was a spirited campaign. The plaintiffs supported the previous superintendent Hubert Hargis. Mr. Hargis was the opponent of the defendant Johnny Ray Fults in the election. The plaintiffs supported Mr. Hargis in his campaign, and their support for Mr. Hargis was within their constitutional right of expression of association and speech, and the plaintiffs acted within their rights as citizens. Their political opposition to the defendant Johnny Ray Fults was open and obvious. The plaintiffs were fired from their positions because of their political opposition to the

defendant Johnny Ray Fults. The discharge of the plaintiffs under these circumstance have resulted in emotional damage and humiliation.

4. Patronage dismissals of governmental employees who do not hold policy-making or confidential positions have been recognized as unconstitutional. In this case the plaintiffs have been wrongfully discharged in violation of their federal constitutional right to free expression, free association, and free speech; and they file this action pursuant to 40 U.S.C. §1983. That section states that a person who, under color of law, is subjected to the contravention of any rights, privileges or immunity secured by the constitution can maintain an action. The defendant Grundy County delegated its decision-making authority for hiring and firing employees at the Grundy County Highway Department to the defendant Johnny Ray Fults. In this case the individual defendant Johnny Ray Fults, the newly elected Grundy County Road Superintendent, acted under color of law as the road superintendent of Grundy County, a governmental entity, in firing the plaintiffs and discharging them from their lawful employment.

5. The termination of the plaintiffs for failing to support the defendant Johnny Ray Fults in the election held in Grundy County, Tennessee, and in supporting his opponent Hubert Hargis, violated the constitutional rights of both plaintiffs.

Wherefore, premises being considered, the plaintiffs pray as follows:

1. That the defendants be served with process, requiring them to appear and answer this complaint.

2. That upon a hearing of this cause, the plaintiffs be granted relief, including reinstatement to their jobs, the award of back-pay, front-pay, additional loss of income and fringe benefits, punitive damages, pre-judgment and post-judgment interest as to all amounts awarded,

and an award of all costs incurred in pursuing this action, and including discretionary costs and attorney fees.

3. For actual and compensatory damages, including emotional damages and humiliation in the amount of \$500,000.

4. That a jury try this action.

5. That the plaintiffs be granted general and further relief as this Court may deem just and proper.

Respectfully submitted,

SWAFFORD, PETERS, PRIEST & HALL

By: 

Robert S. Peters, BPR No. 3630

120 North Jefferson Street

Winchester, Tennessee 37398

(931) 967-3888

[rspeters@spphlaw.com](mailto:rspeters@spphlaw.com)

*Attorney for plaintiffs*